

[REDACTED]

[REDACTED]

[REDACTED]

FEB 12 1993

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Form: 1120

Tax Years: [REDACTED]

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

This ruling is made for the following reasons: You are not operated exclusively for one or more exempt purposes under section 501(c)(3) of the Code. You have the non-exempt substantial purpose of promoting the businesses of [REDACTED] and its members. Furthermore, the program to a major degree serves the private interests of [REDACTED] and its members who own the bowling centers in which the participants are required to bowl each season until they graduate from high school.

Contributions to you are not deductible under section 170 of the Code.

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the tax years shown above. You should file these returns with your key District Director for exempt organization matters within 30 days from the date of this letter, unless a request for an extension of time is granted. Returns for later tax years should be filed with the appropriate service center as indicated in the instructions for those returns.

If you decide to contest this ruling under the declaratory judgment provisions of section 7428 of the Code, you must initiate a suit in the United States Tax Court, the United States

[REDACTED]

Claims Court, or the District Court of the United States for the District of Columbia before the 91st day after the date that this ruling was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. Processing of income tax returns and assessment of any taxes due will not be delayed because a declaratory judgment suit has been filed under section 7428.

In accordance with section 6104(c) of the Code, the appropriate State officials will be notified of this action.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown above.

Sincerely,

(signed) [REDACTED]

[REDACTED]
Director, Exempt Organizations
Technical Division

cc: [REDACTED]

cc: [REDACTED]

cc: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JAN 09 1992

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted establishes that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Your Articles state in part that you are organized and shall operate exclusively for charitable, educational, and scientific purposes within the meaning of section 501(c)(3) of the Code.

Your membership is comprised of the members of the [REDACTED]. Your officers are also the officers of the Association.

Your sole activity consists of operating an educational scholarship program for bowlers who have not yet graduated from high school. All such youths who are residents of [REDACTED] may participate in the scholarship program by bowling in a bowling center that is owned by a member of [REDACTED] for at least one "season" per year and paying a \$[REDACTED] annual registration fee. There is no minimum age for participation. Children as young as 4 years of age have participated in similar programs in another state. [REDACTED] is described in the scholarship literature as a co-operative non-profit membership association of bowling establishments throughout [REDACTED] who "have joined together in a mutual cause to accomplish collectively that which cannot be done on an individual basis in promoting the industry and the game of bowling." The scholarship is described as follows; "The program is just one example of this joint endeavor."

Scholarships will not be based on bowling or other skills, or educational achievements, but will be based solely on participation in bowling in centers owned by members of [REDACTED]

[REDACTED]

[REDACTED]. Enrolled youth bowlers accumulate "points" in their local bowling center, local and state programs, league bowling and other related bowling activities. Each year the points are converted into scholarship dollars and are credited under the Youth Bowlers's name until they graduate from high school. The more bowling activities a youth participates in each year, the more points (scholarship dollars) will be earned and credited to the individual youth's account. The scholarships can be used for colleges and trade schools.

Youth bowlers who cease without sufficient cause to participate in the bowling scholarship program before high school graduation forfeit all previously earned scholarship dollars. Whether there is sufficient reason for not forfeiting the scholarship credits is determined by [REDACTED] Committee. Examples of nonforfeiture might be serious long-term illness, a broken arm or leg, relocation to a state or area where the scholarship program is not available or inaccessible, and other extenuating circumstances that will be evaluated on a case-by-case basis.

Letters are sent each August to the parents of the youth bowling participants which are designed to motivate the parents to urge their child or children to continue participating in the bowling scholarship program. The letters inform the parents of how many scholarship dollars are credited in their child or children's account and that the youth will get to keep these credits provided he re-registers and bowls at a participating center during the coming year. Your scholarship literature, in addition to describing the benefits to the youth bowlers, also describes the advantages to the bowling proprietors who are members of [REDACTED].

Section 501(a) of the Code provides, in part, that organizations described in section 501(c) are exempt from federal income tax. Section 501(c)(3) describes, in part, an organization which is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order for an organization to be exempt under section 501(c)(3) of the Code it must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational or operational test, it is not exempt.

[REDACTED]

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code unless it serves a public rather than a private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" as including the advancement of education and the promotion of social welfare by organizations designed to combat juvenile delinquency.

The promotion of sport among children is generally recognized as "charitable". See Scott on Trusts sections 374-6A; Bogert, Trusts & Trustees, section 379; and Restatement (Second) of Trusts section 374. These authorities disagree in their rationale, but it is accepted that the basis for exemption is either that the activities are educational or that they combat juvenile delinquency.

In Rev. Rul. 61-170, 1961-1 C.B. 112, an association composed of professional private duty nurses and practical nurses which supported and operated a nurses' registry primarily to afford greater employment opportunities for its members was not entitled to exemption under section 501(c)(3) of the Code. The activities of the organization inured to the benefit of its members. Rev. Rul. 61-170 can be contrasted with Rev. Rul. 65-298, 1965-2 C.B. 163. In Rev. Rul. 65-298 a non-membership organization provided seminars to members of the medical profession. These seminars are designed to lessen the time between the discovery of medical knowledge and its practical application. Unlike the organization in Rev. Rul. 61-170, the benefits that flow from the activities of the medical seminar organization flow much more directly to the general public.

Situation 2 of Rev. Rul. 69-545, 1969-2 C.B. 117, describes a hospital, otherwise serving a charitable purpose, that was denied

[REDACTED]

exemption under section 501(c)(3) of the Code because it served a private interest more than incidentally. The revenue ruling states that in considering whether a nonprofit organization claiming charitable exemption is operated to serve a private benefit the Service will weigh all of the relevant facts and circumstances in each case.

Rev. Rul. 80-287 concerns a lawyer referral service in which any member of the public can obtain an initial visit with a lawyer whose name is on an approved list maintained by the organization. The ruling states that providing services of an ordinary commercial nature in a community, even though the undertaking is conducted on a nonprofit basis, is not regarded as conferring a charitable benefit on the community unless the service directly accomplishes one of the established categories of charitable purposes. Although the lawyer referral service provided some public benefit, a substantial purpose of the program was the promotion of the legal profession.

The presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes. Better Business Bureau v. United States, 326 U.S. 279 (1945).

Operating for the benefit of private parties constitutes a substantial nonexempt purpose. Old Dominion Box Co. v. United States, 477 F. 2d 340 (4th Cir. 1973), cert denied 413 U.S. 910 (1973).

Leon A. Beehly v. Commissioner, 35 TC 490 (1960), provided that where an exempt organization engages in a transaction with a related interest and there is a purpose to benefit the private interest rather than the organization, exemption may be lost even though the transaction ultimately proves profitable for the exempt organization.

In American Campaign Academy v. Commissioner, 92 T.C. 66, the Tax Court was called on to decide whether benefit to third parties, who were not members of the organization, would prevent the organization from being recognized as an exempt organization within the meaning of section 501(c)(3) of the Code. The Court concluded that the organization could not confer benefits on disinterested persons and still serve public purposes within the meaning of

section 1.501(c)(3)-1(d)(1)(ii) of the regulations. The Court states as follows.

Moreover, an organization's conferral of benefits on disinterested persons may cause it to serve 'a private interest' within the meaning of section 1.501(c)(3)-1(d)(1)(ii), Income Tax Regs. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978). See Kentucky Bar Foundation v. Commissioner, 78 T.C. 921 (1982), Aid to Artisans, Inc. v. Commissioner 71 T.C. 202 (1978)...In this connection, we use 'disinterested' to distinguish persons who are not private shareholders or individuals having a personal and private interest in the activities of the organization within the meaning of section 1.501(a)-1(c) Income Tax Regs.

In International Postgraduate Medical Foundation v. Commissioner, T.C. Memo 1989-36 (1989), the Court concluded that the petitioner was not described in section 501(c)(3) of the Code. The petitioner was organized for the purpose of providing continuing medical education to physicians. To this end, it took physicians on three week tours throughout the world. The petitioner shared offices with a for-profit travel agency which was controlled by the petitioner's principal officer. It made all its travel arrangements through the agency.

The Court found that a substantial purpose of the petitioner was benefitting the for-profit travel agency. It concluded that:

When a for-profit organization benefits substantially from the manner in which the activities of a related organization are carried on, the latter organization is not operated exclusively for exempt purposes within the meaning of [section] 501(c)(3), even if it furthers other exempt purposes.

The activity of providing funds to young people to further their education can be an exempt activity within the meaning of section 501(c)(3) of the Code. In addition, the support of athletic programs for children is a recognized charitable purpose. But before a conclusion can be reached that you are organized and operated to accomplish an exempt purpose, it must be determined that you are organized and operated exclusively to support athletics for children or to provide scholarships for children. To reach that conclusion, we must determine that you are not organized for the benefit of private individuals, within the meaning of sections 1.501(c)(3)-1(c)(2) and 1.501(c)(3)-1(d)(2)(1)(ii) of the regulations.

[REDACTED]

If a private interest is served, it must be incidental in both a qualitative and quantitative sense. In order to be incidental in a qualitative sense, it must be a necessary concomitant of the activity which benefits the public at large. In other words, the activity can be accomplished only by benefiting certain private individuals. To be incidental in a quantitative sense, the private benefit must not be substantial after considering the overall public benefit conferred by the activity.

We have reviewed your activities and we have reached the conclusion that you have engaged in substantial private benefit which is not incidental, in either a quantitative or qualitative sense, to your admittedly public purpose. To a significant degree, you further the economic interests of your members in a manner similar to the organization described in Rev. Rul. 61-170. While nursing the sick is a recognized charitable activity, finding employment for nurses is not, particularly when the nurses are in control of the organization as was the case in Rev. Rul. 61-170. Similarly, in Rev. Rul. 80-287, there was a benefit to the public from the lawyer referral service. But this benefit to the public was outweighed by the substantial private benefit to the individual attorneys who participated. From these two revenue rulings, it can be seen that having a public purpose is not sufficient for exemption when there is private benefit that is more than insubstantial.

The procuring of additional customers for the members of [REDACTED] is a motivating force behind your activities. In fact, your promotional literature highlights this aspect of your program. For example, page three of the white booklet you submitted (which was prepared by you) reads as follows.

A Program
To Attract & Retain
Youth Bowlers

In addition to scholarship dollars for youth bowlers, proprietors stand to benefit greatly with this program. Because of its very nature--your youth bowlers accumulating dollars for advanced education -- the program will attract new youth bowlers that may otherwise not be exposed to bowling, as well as those that are only "casual" bowlers, normally not participating in organized league play.

Retention of these same bowlers will be an easier task, particularly during those teen years when we lose them to other sports. Because of the necessity to re-register each year and participate annually to retain their

[REDACTED]

credits already accumulated, the will WANT to return each season.

Your promotional literature proves the point made in International Postgraduate Medical Education. When the operation of an applicant for exemption bestows substantial benefits on a for-profit enterprise, the applicant can not be recognized as exempt because the private benefit outweighs the public benefit.

We need to also analyze the benefit flowing to the young participant. In your promotional literature it states that if a participant fully participates in local and regional events, they may recover in scholarship what they have had to pay in bowling fees. Thus the benefit flowing to the participant is not substantial. The optimal situation only permits recovery of the amount expended. Thus you are encouraging young bowlers to participate which is of substantial economic benefit to bowling centers that control you. You are using funds raised by fund raising to provide a benefit that is probably going to be much less significant than the money spent by the bowler. Thus, the benefit of your activities is principally flowing to the bowling centers, not the young bowlers.

In conclusion, we find that you are not operated exclusively to accomplish purposes described in section 501(c)(3) of the Code. You are operated to a significant extent to promote the economic interests of [REDACTED]. You are controlled by [REDACTED], which gives the association the continued ability to direct your activities for its own economic gain. Thus, we find that you are not exempt from federal income tax as an organization described in section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code.

You are required to file income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

[REDACTED]

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with Code section 6104(c).

Sincerely,

(signed) [REDACTED]
[REDACTED]

Chief, Exempt Organizations
Rulings Branch 2

cc: [REDACTED]

Attn: [REDACTED]

cc: State officials, [REDACTED]

1/8/92
see memo

1/8/92